

EXHIBIT 106

PUBLIC

In the Matter Of:

USA v

GOOGLE

MICHAEL SHAUGHNESSY

August 09, 2023



Page 1

1
 2 UNITED STATES DISTRICT COURT
 3 FOR THE EASTERN DISTRICT OF VIRGINIA
 4 -----X
 5 UNITED STATES OF AMERICA, et al,
 6
 7 PLAINTIFF,
 8
 9 -against-
 10
 11 GOOGLE LLC,
 12
 13 DEFENDANT.
 14 Civil 1:23-cv-00108
 15 -----X
 16
 17 DEPOSITION OF MICHAEL SHAUGHNESSY
 18 New York, New York
 19 Wednesday, August 9, 2023
 20
 21 Reported by:
 22 Rebecca Schaumloffel, RPR, CLR
 23 JOB #: 2023-906148
 24
 25

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1
 2 A P P E A R A N C E S :
 3
 4 DEPARTMENT OF JUSTICE
 5 Attorneys for the Plaintiff
 6 950 Pennsylvania Avenue
 7 New York, New York 20530
 8 BY: MICHAEL WOLIN, ESQ.
 9 KAITLYN BARRY, ESQ.
 10
 11 AXINN, VELTROP & HARKRIDER, LLP
 12 Attorneys for Google
 13 1901 L Street NW
 14 Washington, DC 20036
 15 BY: CHRIS ERICKSON, ESQ.
 16
 17 PAUL, WEISS, RIFKIND, WHARTON & GARRISON
 18 Attorneys for the Defendant
 19 Google
 20 1285 6th Avenue
 21 New York, New York 10019
 22 BY: ERIN MORGAN, ESQ.
 23 CARTER GREENBAUM, ESQ.
 24
 25 DAVIS & GILBERT
 Attorneys for Kargo
 1675 Broadway
 New York, New York 10019
 BY: INA B. SCHER, ESQ.
 ALSO PRESENT:
 Lem Lattimer, Lexitas
 * * *

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1 M. SHAUGHNESSY
 2 THE VIDEOGRAPHER: We are now on
 3 the record. My name is Lem Lattimer.
 4 I'm a legal videographer retained by
 5 Lexitas. Today's date is Wednesday,
 6 August 9, 2023, and the video time is
 7 10:00 a.m.
 8 The deponent is Michael
 9 Shaughnessy in the matter of the
 10 United States of America versus Google
 11 LLC. All appearances are noted on the
 12 record.
 13 Will the court reporter, Rebecca
 14 Schaumloffel, please swear in the
 15 witness.
 16
 17
 18
 19 MICHAEL SHAUGHNESSY, called as a witness,
 20 having been first duly sworn by a Notary
 21 Public of the States of New York, New Jersey,
 22 and Pennsylvania was examined and testified
 23 as follows:
 24 EXAMINATION BY
 25 MR. WOLIN:

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1 M. SHAUGHNESSY
 2 Q. Good morning, Mr. Shaughnessy. My
 3 name is Michael Wolin. I'm here on behalf of
 4 the United States of America. I'm from the
 5 Department of Justice Antitrust Division.
 6 I'm joined here by my colleague, Kaitlyn
 7 Barry, also an attorney for the United States
 8 of America.
 9 Could you please state your name
 10 for the record, please.
 11 A. Yes. Michael Shaughnessy.
 12 Q. I would like to -- let me ask you
 13 first, sir, have you been deposed before?
 14 A. No.
 15 Q. So I'm going to start, then, with
 16 some procedures, just some ground rules so
 17 that the deposition goes smoothly.
 18 Is that okay?
 19 A. Yes.
 20 Q. Our court reporter will record
 21 everything we say here today. So to assist
 22 her, could you please speak loudly and
 23 clearly and wait until I finish my question
 24 before you start your answer?
 25 A. Yes.

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1 **M. SHAUGHNESSY**
 2 A. They could.
 3 **Q. Okay. Is that frequent, in your**
 4 **experience?**
 5 A. It has been becoming more frequent
 6 recently based on consumer behaviors.
 7 **Q. Do ad campaigns also typically**
 8 **include Connected TV ads or display ads for**
 9 **desktop?**
 10 MR. WOLIN: Objection.
 11 A. It depends.
 12 **Q. Can ad campaigns incorporate**
 13 **mobile ads, video ads, C TV ads, and desktop**
 14 **display ads?**
 15 A. Yes.
 16 **Q. In your experience, when one**
 17 **inventory type, like web display, in app-ads,**
 18 **video ads, CTV ads, generates better return**
 19 **on investments than other inventory types, do**
 20 **advertisers shift comparatively more spend**
 21 **from the lesser to the better performing type**
 22 **of inventory?**
 23 MR. WOLIN: Objection.
 24 A. Can you repeat the question.
 25 **Q. Yeah. If one type of inventory is**

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1 **M. SHAUGHNESSY**
 2 **performing better than another one, so, say,**
 3 **video is performing better than Connected TV,**
 4 **in your experience, do advertisers shift more**
 5 **of their spend to video than to Connected TV**
 6 **in that example?**
 7 MR. WOLIN: Objection.
 8 A. In my experience, marketers will
 9 want to make sure they are getting their
 10 return on investment and they'll recalibrate
 11 their campaigns and their tactics to deliver
 12 in the best environment to execute on their
 13 objectives.
 14 **Q. When you say "recalibrate," do you**
 15 **mean that they could shift ad spend from one**
 16 **type of inventory to another?**
 17 A. They can certainly optimize.
 18 **Q. Does "optimize" mean shifting ad**
 19 **spend from one type of inventory to another?**
 20 A. It is one mechanism, yes.
 21 **Q. Do mobile ads compete for dollars**
 22 **with other types of advertising?**
 23 MR. WOLIN: Objection.
 24 A. Yes.
 25 **Q. What other types of advertising do**

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1 **M. SHAUGHNESSY**
 2 **mobile ads compete with?**
 3 MR. WOLIN: Objection.
 4 A. Desktop, previously print.
 5 **Q. What about TV ads?**
 6 A. To a degree, yes.
 7 **Q. What about Connected TV? Is that**
 8 **different than regular TV ads or am I saying**
 9 **the same thing?**
 10 A. They are considered different in
 11 the industry and also to the consumer.
 12 **Q. Do mobile ads compete with**
 13 **Connected TV ads for dollars?**
 14 MR. WOLIN: Objection.
 15 A. It depends.
 16 **Q. But can they?**
 17 MR. WOLIN: Objection.
 18 A. It could.
 19 **Q. Could you shift spend from a**
 20 **mobile ad to a Connected TV ad as an**
 21 **advertiser if you thought that would be more**
 22 **profitable?**
 23 MR. WOLIN: Objection.
 24 A. There are a lot of complexities
 25 that go into this based on the different

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1 M. SHAUGHNESSY
 2 teams that support all of these initiatives,
 3 and they are not necessarily always the same
 4 team. So there is a lot of planning and
 5 thoughtfulness and work that would need to be
 6 done.
 7 But the client could certainly
 8 talk to their agency teams and discuss these
 9 types of opportunities.
 10 **Q. Mr. Wolin asked you earlier about**
 11 **the link between GDN, AdX, and DFP.**
 12 A. Yes.
 13 **Q. And you said that the link between**
 14 **those things had both positive and negative**
 15 **impacts on publishers.**
 16 A. Yes.
 17 **Q. Do you remember that?**
 18 **What are the positive impacts that**
 19 **that has on publishers?**
 20 A. The positive impacts is, there is
 21 a powerful ad server and there is demand.
 22 **Q. Okay.**
 23 MS. MORGAN: I'm going to
 24 reserve the remaining, like, three
 25 minutes for redirect. Or however --

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1 **M. SHAUGHNESSY**
2 "there are likely to be holes in the case,"
3 you are not referring to a case filed by the
4 Department of Justice, correct?
5 A. Correct.
6 **Q. Google's counsel asked you about a**
7 **meeting that -- or a telephone meeting that**
8 **you had with her.**
9 **Do you recall that testimony?**
10 A. Yes.
11 **Q. When did that meeting occur?**
12 A. With the Google --
13 **Q. Correct.**
14 **When did you discuss with Google's**
15 **counsel over the phone?**
16 A. This week.
17 **Q. How long did you talk with**
18 **Google's counsel?**
19 A. I believe the meeting was
20 scheduled for approximately 45 minutes.
21 **Q. And did Google's counsel preview**
22 **to you the topics that she was going to ask**
23 **about at this deposition?**
24 A. I don't believe so. It was mostly
25 focused on the previous conversations I had

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1 **M. SHAUGHNESSY**
2 with the DOJ.
3 **Q. And what did you tell her about**
4 **your previous communications with the DOJ?**
5 A. I communicated that I was being
6 reached out to as someone in the industry,
7 initial conversations were characterized as
8 understanding the ecosystem, my role, header
9 bidding, the Google ad stack, and things like
10 that.
11 **Q. Do you view the ad tech industry**
12 **as important?**
13 A. Yes.
14 **Q. Why do you view the ad tech**
15 **industry as important?**
16 A. I believe the ad tech industry is
17 important because there is a value exchange
18 between content creators and consumers and is
19 really important to our democracy and making
20 sure that there is fact-based information
21 that is accessible to all.
22 **Q. What company offers the largest**
23 **publisher ad server in the ad tech industry?**
24 A. Google.
25 **Q. What company offers the largest**

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1 **M. SHAUGHNESSY**
2 **SSP in the ad tech industry?**
3 A. Google.
4 **Q. Which company offers the largest**
5 **demand source in the ad tech industry?**
6 A. I believe it's Google.
7 MR. WOLIN: I have no further
8 questions.
9 MS. MORGAN: Can we just take a
10 two-minute break off the record, and
11 then I will come up and hopefully
12 finish out?
13 MR. WOLIN: Yes.
14 MS. MORGAN: I just want to use
15 the bathroom and talk to these guys
16 for a second.
17 THE VIDEOGRAPHER: The time is
18 2:10 p.m. We are off the record.
19 (Whereupon, a recess was held.)
20 THE VIDEOGRAPHER: The time is
21 2:16 p.m. We are back on the record.
22 MS. MORGAN: Mr. Shaughnessy, we
23 have no further questions for you. So
24 you can go out and continue to enjoy
25 the rest of your day.

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1 **M. SHAUGHNESSY**
2 THE WITNESS: All right. Thank
3 you.
4 MS. MORGAN: Thank you so much.
5 MR. WOLIN: And thank you, as
6 well, from us.
7 THE WITNESS: Yes, thank you.
8 THE VIDEOGRAPHER: The time is
9 2:16 p.m. We are off the record.
10 (Whereupon, at 2:16 p.m., the
11 Examination of this Witness was
12 concluded.)
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MICHAEL SHAUGHNESSY

Subscribed and sworn to before me
this ____ day of _____, 2023.

NOTARY PUBLIC

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1			
2	E X H I B I T S		
3			
4			
5	EXHIBIT	EXHIBIT	PAGE
6	NUMBER	DESCRIPTION	
7			
8	Exhibit 1001	KARGO_000199	98
9	Exhibit 1002	spreadsheet	98
10	Exhibit 1003	KARGO_000073 through	129
11		'114	
12	Exhibit 1004	Document titled	134
13		"Avoiding A Bad Google	
14		Breakup" dated June 1,	
15		2021	
16	Exhibit 1005	Document titled	145
17		"France Paves The Way	
18		For More Action	
19		Against Google's	
20		Unfair Practices"	
21		dated August 5, 2021	
22			
23			
24			
25			

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1			
2	Exhibit 1006	Document titled	154
3		"Publishers Have a	
4		Window of Opportunity	
5		to Change Google and	
6		Facebook" dated	
7		January 26, 2021	
8			
9			
10			
11	I N D E X		
12			
13			
14	EXAMINATION BY		PAGE
15			
16	MR. WOLIN		3
17	MS. MORGAN		115
18	MR. WOLIN		169
19			
20			
21			
22	INFORMATION AND/OR DOCUMENTS REQUESTED		
23	INFORMATION AND/OR DOCUMENTS PAGE		
24	(NONE)		
25			

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
 COUNTY OF NASSAU)

I, REBECCA SCHAUMLOFFEL, a Notary
 Public for and within the State of New York,
 do hereby certify:
 That the witness whose examination
 is hereinbefore set forth was duly sworn and
 that such examination is a true record of the
 testimony given by that witness.
 I further certify that I am not
 related to any of the parties to this action
 by blood or by marriage and that I am in no
 way interested in the outcome of this matter.
 IN WITNESS WHEREOF, I have hereunto
 set my hand this 10th day of August, 2023.
Rebecca Schaumloffel
 REBECCA SCHAUMLOFFEL

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1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Case Name: In Re: US, et al. V. Google LLC

3 Dep. Date: August 9, 2023

4 Deponent: Michael Shaughnessy

5 CORRECTIONS:

6 Pg.	Ln.	Now Reads	Should Read	Reason
7	—	—	—	—
8	—	—	—	—
9	—	—	—	—
10	—	—	—	—
11	—	—	—	—
12	—	—	—	—
13	—	—	—	—
14	—	—	—	—
15	—	—	—	—
16	—	—	—	—
17	Signature of Deponent			
18				
19				
20	SUBSCRIBED AND SWORN BEFORE ME			
21	THIS ____ DAY OF ____, 2023.			
22				
23				
24	(Notary Public) MY COMMISSION EXPIRES: ____			
25				